

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT APPEAL No.537 OF 2023**

**JUDGMENT:** *(per the Hon'ble Shri Justice Anil Kumar Jukanti)*

This intra court appeal is filed challenging the order, dated 23.03.2023, passed by the learned Single Judge in Writ Petition No.20624 of 2021.

2. Heard Mr. H.Rajesh Kumar, learned counsel for the appellant and Mr. S.Srinivasa Rao, learned counsel representing Mr. T.Mahender Rao, learned counsel for respondent No.4.

3. The case of the appellant is that she purchased the land admeasuring Ac.3.00 guntas in Survey No.15 situated at Kolanupaka Village of Alair Mandal, Yadadri-Bhuvanagiri District from respondent Nos.5 and 6 by way of two registered sale deeds, both dated 26.09.2017 and the same was mutated in favour of the appellant vide proceedings No.220/2017-19. She is in possession of the said property.

It is submitted that the said land was purchased by respondent No.5 from one Dupelli Ambakka, W/o. Raji Reddy through an ordinary sale deed long back and that respondent No.5 had executed a registered gift deed, dated 08.12.2015, to an extent of Ac.2.00 guntas out of the said Ac.3.00 guntas in favour of his wife i.e., 6<sup>th</sup> respondent. Respondent No.6 was issued pattedar passbook and since then, respondent No.6 has been in continuous, peaceful and uninterrupted possession and that the land purchased jointly is separate and distinct.

4. The learned counsel for respondent No.4 contended that land admeasuring Ac.7.19 guntas in Survey Nos.10 and 15 was purchased jointly by respondent Nos.4 and 5 and the question of respondent Nos.5 and 6 selling the land to the appellant does not arise as it is a joint land, as rightly held by the Special Tribunal, vide orders, dated 18.06.2021 and by the learned Single Judge in W.P.No.20624 of 2021, vide orders, dated 23.03.2023. Submitted that comprehensive suit vide O.S.No.32 of 2021 seeking partition and separate

possession of the suit schedule property and also to declare registered gift settlement deeds, dated 08.12.2015 and 26.09.2017, executed in favour of appellant/petitioner as null and void and the said suit is pending before the appropriate Court. That the learned Single Judge has rightly held in Para-15 of the order, dated 23.03.2023, which is as follows:

*“The petitioner herein had obtained conversion proceedings in respect of land admeasuring Ac.3.00 guntas in Sy.No.15 of Kolunupaka Village from agriculture to non-agriculture vide proceedings dated C/1100/2020, dated 29.06.2020 from the Revenue Divisional Officer Bhongir. She has also obtained lay out from DTCP, vide proceedings Lr.No.61/2021/DTCPO/YDRB, dated 09.03.2021, the District Town & Country Planning Officer, yadadri Bhuvanagiri District approving the Draft Technical Lay out pattern and the same was informed to Panchayat Secretary, Kolanupaka Gram Panchayat. She has also obtained latest passbooks and title deeds on 25.04.2018 in respect of the subject land admeasuring Ac.3.00 guntas in Sy.No.15E/1 and 15E/e situated at Kolanupaka*

*Village. Even the learned counsel for the petitioner had filed copies of the said documents along with the memo vide USR No.1412 of 2022 dated 05.01.2022. She had executed several gift settlement deeds viz; doc.No.17581, 17582, 17583, 17584, 6757 and 6758 of 2021, 14088, 14599 of 2020 in favour of her husband Sri Jukanti Uppalaih in respect of open plots. She has conveniently suppressed the said facts in the present writ affidavit. Learned counsel for 4<sup>th</sup> respondent had filed copies of aforesaid gift settlement deeds along with the memo dated 21.10.2022 vide USR No.93822/2022, dated 21.10.2022. Thus, the petitioner has not approached this Court with clean hands.”*

5. The learned counsel for respondent No.4 contended that the learned Single Judge has rightly held that respondent No.5 could not have executed gift deed in favour of his wife i.e., respondent No.6 in respect of the joint property purchased by respondent Nos.4 and 5. Respondent Nos.5 and 6 had executed the two aforesaid sale deeds in favour of the appellant. It is also held that the petitioner/appellant had suppressed true and material facts,

while filing the writ petition and hence, guilty of suppression of material facts in the writ affidavit.

6. Heard both the learned counsels. The writ petitioner has approached this Court by suppressing the material fact that the said land has been purchased jointly and the question of respondent No.5 executing a gift deed in favour of his wife i.e., respondent No.6 in respect of the joint property does not arise. These facts were not pleaded in the writ affidavit and the writ court has rightly held that there was suppression of material facts. The Hon'ble Apex Court in the case of ***K.Jayaram v. Bangalore Development Authority***<sup>1</sup> held that "the petitioner approaching the writ court must come with clean hands and put forward all facts before the court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the court as well as with the opposite parties which cannot be countenanced". If the petitioner

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<sup>1</sup> (2022) 12 SCC 815

approached the Court by suppression of material facts, it would be abuse of process of law. We hold that the petitioner/appellant has suppressed the material facts and it amounts to abuse of process of law and also fraud. This Court is not inclined to interfere with the order passed by the learned Single Judge in W.P.No.20624 of 2021, dated 23.03.2023. The learned Single Judge in his detailed order discussed at length every aspect and held that the appellant has suppressed the material facts.

7. In view of the above said discussions, the Writ Appeal is dismissed. No order as to costs.

Miscellaneous applications, if any pending, in this Writ Appeal shall stand closed.

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**ALOK ARADHE, CJ**

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**ANIL KUMAR JUKANTI, J**

Date: 28.11.2023  
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